THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.13006 OF 2006

Date: 27th June 2006

Between:
Maddukuri Veera Hanuman,
Son of VeeraVenkata Satyanarayana,
Aged 29 years, resident of MIG-IIA-116,
Gullapalem Colony, Sriharipuram,
Malkapuram Post, Visakhapatnam-11.

.... Petitioner.

And

1. The Joint Collector,
   Visakhapatnam District and another.

.... Respondents.

* * *

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring seizure of tanker lorry of the petitioner bearing No.AP 31 T 5355 on 14.04.2006, as illegal, unjust, without jurisdiction, against the principles of natural justice and violative of Article 19 (g) of the Constitution of India.

2. It is the case of the petitioner he is the owner of oil tanker bearing No.AP 31 T 5355. He obtained all necessary permissions from competent authorities to transport various oils on being engaged by others. He never indulged in any type of malpractices in transporting stocks in his vehicle. On 13.04.2006 7KL of waste oil belonging to M/s.Siddi Vinayaka Waste Oils, was loaded into

his tanker lorry to be delivered to M/s. Rajesh Petroleum, Hyderabad. The second respondent intercepted the said tanker, registered a case in crime No.65 of 2006 under Section 7 of Essential Commodities Act and clauses 3, 22, 23 and 26 of A.P. Petroleum Product (L & D) Order, 1980, alleging that the product of HSD oil is being procured unlawfully and the same is being transported in the oil tanker and initiated proceedings under Section 6-A of the Essential Commodities Act, and the proceedings are pending. It is further stated that the stock being transported and seized from the oil tanker is not HSD oil and it is only waste oil. On 07.06.2006 the first respondent vide his memo-dated 07.06.2006 directed the petitioner to furnish bank guarantee for a value of Rs.2.23 lakhs for the purpose of releasing the tanker lorry when he approached the said authority. It is also his further case that Hindustan Petroleum Corporation Limited, Visakha Terminal Laboratory, on examination of the seized oil, found that the samples failed to meet high speed diesel specifications. It appears as a mixture of used engine oils and coal tar. Thus, according to the petitioner, there was no violation of any conditions of the A.P. Petroleum Control Order, 1980.

3. Be that as it may, in this writ petition the petitioner is concerned only with the release of tanker lorry. It is his grievance when he approached the authorities, he was asked to furnish bank guarantee for Rs.2.23 lakhs for the purpose of releasing the vehicle. Further, he stated that since the tanker lorry is in the custody of the respondents for the last more than two months, he did not do any business. Therefore, it is difficult for him to furnish

bank guarantee for release of the vehicle.

4. Having regard to the facts and circumstances of the case, I deem it appropriate to direct the first respondent to release the tanker lorry bearing No.AP 31T 5355 to the petitioner on furnishing third party immovable property security for Rs.2.23 lakhs (Rupees two lakhs twenty three thousand only).

5. The writ petition is accordingly disposed of. No costs.

C.V.RAMULU, J.

Date: 27th June 2006.
BSB

OPERATIVE PORTION OF THE ORDER:

Having regard to the facts and circumstances of the case, I deem it appropriate to direct the first respondent to release the tanker lorry bearing No.AP 31T 5355 to the petitioner on furnishing third party immovable security for Rs.2.23 lakhs (Rupees two lakhs twenty three thousand only).

The writ petition is accordingly disposed of. No costs.

(Main order follows…)

C.V.RAMULU, J.

Date: 27th June 2006.

Note:
1. Issue wire of the operative Portion of the order at Party's costs.

2. Please send this bundle to the Court Masters' Section after Dispatch of the wire order.

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BSB